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Attorneys for Plaintiff, David Keyes

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

DAVID KEYES, on Behalf of Himself and All
Others Similarly Situated,

No.: CV 07-03598 PJH

Plaintiff,

vs.

SECURITY CHECK, LLC; HALL &
ASSOCIATES, P.L.L.C.; EDWARD R. HALL;
and STEVEN B. ROTHSCHILD,

Date:
Time:
Place:

Defendants.

**DECLARATION OF LAWRENCE L. SZABO IN SUPPORT OF MOTION FOR
ENTRY OF DEFAULT JUDGMENT**

I, Lawrence L. Szabo, declare the following in support of Plaintiffs motion for Entry of
Default: Judgment:

1. I am one of Plaintiff's attorneys for Plaintiff in the above referenced action.
2. I discovered via the internet that Steven B. Rothschild was a member and owner of Hall
& Associates, when Hall & Associates sent the unlawful collection letter which is the basis of this
action to Plaintiff. I therefore named Mr. Rothschild as a defendant.

1 3. Before filing the complaint in this action, I searched the records of the New York courts
2 via the internet and verified that Steven B. Rothschild was a member of the New York bar, No.
3 1376417, and that his office of record was 747 Chestnut Ridge Rd, Ste 200, Spring Valley, NY
4 10977-6225.

5 4. I proceeded to mail the summons, complaint and related documents together with a
6 "Notice of Lawsuit and Request for Waiver of Service of Summons" and a "Waiver of Service of
7 Summons" to Mr. Rothschild's office address. The documents mailed were not returned by the U.
8 S. Post Office.

9 5. About a week after I mailed the documents, I received a recorded phone message from a
10 party identifying himself as Steven Rothchild. In his message, Mr. Rothshild stated that he had
11 nothing to do with Defendant Hall & Associates and that I should dismiss the case against him and
12 if I would not, he would seek sanctions against me.

13 6. I responded to the message by calling Mr. Rothschild's office. I could not reach him
14 personally, but I left a recorded message stating that the information I had indicated that he was a
15 member of Hall & Associates, but if he had information or evidence to the contrary, he should
16 provide it, because I had no intention of proceeding with the action against anyone not liable for
17 the FDCPA violations.

18 7. After several days, I received no response to my message, so I called Mr. Rothschild
19 again, and again left a recorded message essentially re-stating my earlier message. I never received
20 a reply to my second message, nor have I ever received any written correspondence from Mr.
21 Rothschild.

22 8. Mr. Rothschild did not execute and return the waiver of service of summons I mailed
23 him. I therefore arranged to have a process server serve Mr. Rothschild at his office. Attached
24 hereto as Exhibit A is a copy of the complaint filed in this action, and served upon Mr. Rothschild

25 9. I have no reason to believe Defendant is either an infant or incompetent and that, after
26 searching public military or military locator databases, I have discovered no evidence that
27 Defendant is serving in the military. The action proceeded against the appearing defendants, and
28 during mediation, Plaintiff and the appearing defendants reached a settlement.

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lap@hooleking.com

Attorneys for Plaintiff, David Keyes

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

DAVID KEYES, on Behalf of Himself and All)
 Others Similarly Situated,)

Plaintiff,)

vs.)

SECURITY CHECK, LLC; HALL &)
 ASSOCIATES, P.L.L.C.; EDWARD R.)
 HALL; and STEVEN B. ROTHSCHILD,)

Defendants.)

Case No.

COMPLAINT FOR VIOLATION OF THE
 FEDERAL FAIR DEBT COLLECTION
 PRACTICES ACT

DEMAND FOR JURY TRIAL

CLASS ACTION

The plaintiff alleges, on behalf of himself and all others similarly situated, the following:

I. Jurisdiction.

1. The Court has jurisdiction pursuant to 15 U.S.C. § 1692k and 28 U.S.C. § 1331. Declaratory relief is available pursuant to 28 U.S.C. §§ 2201 and 2202.

2. Venue is proper in this District pursuant to 28 U.S.C. § 1391 because the defendants were collecting a debt of the plaintiff, and plaintiff resides in this District.

II. Parties.

3. Plaintiff is an individual and a resident of Alameda, California.

4. Plaintiff believes Security Check, L.L.C. (referred to herein as "Security Check") is a Mississippi limited liability company doing business in California. Security Check specializes in the collection of debts, including the collection of dishonored checks for check guarantee companies and merchants from all 50 states.

5. Plaintiff believes Hall & Associates, P.L.L.C. (referred to herein as "Hall & Assoc.") is a New York professional limited liability company doing business in California. Plaintiff believes that Hall & Assoc. specializes in the collection of debts, including the collection of dishonored checks, in all 50 states.

6. Edward R. Hall and Steven B. Rothschild are individuals and attorneys. Plaintiff believes Hall and Rothschild are owners, employees and officers of Hall & Assoc. Plaintiff believes that Hall and Rothschild specialize in the collection of debts, including the collection of dishonored checks, in all 50 states. Plaintiff believes Hall and Rothschild created, directed and participated in the collection practices that are the subject of this action.

III. Plaintiff's Factual Allegations.

7. On or about October 19, 2005, Mr. Keyes wrote a \$15.00 check in the state of California to Haircuts 2000 for a haircut.

8. The check was dishonored by Mr. Keyes' bank.

9. Security Check was hired to collect the check.

10. Security Check hired Hall & Assoc. as a law firm to collect the check.

11. On or about October 31, 2006, Hall & Assoc. sent a letter to Mr. Keyes attempting to collect \$160.00 for the check. Attached hereto as Exhibit "A" is a copy of the letter.

12. The amount Hall & Assoc. sought to collect from Mr. Keyes was much more than the amount Mr. Keyes is liable for under California law.

1 13. Plaintiff is informed and believes, and thereon alleges, that at all times
2 herein mentioned defendant Security Check intentionally conferred on defendants Hall &
3 Associates, Hall and Rothschild the authority to do the things herein alleged and were acting
4 within the course and scope of that agency.

5 14. Defendant Security Check led plaintiff to believe by its conduct that Hall
6 & Assoc. had the authority to do the things herein alleged.

7 15. Defendant Hall & Assoc. undertook the actions herein alleged on behalf of
8 defendant Security Check. Security Check thereafter knew of the actions of Hall & Assoc. and
9 accepted the benefits of the actions.

10
11 **IV. Class Allegations.**

12 16. Hall & Assoc. used collection letters to attempt to collect more than
13 allowed by California law from the class members. The use of collection letters seeking more
14 than allowed by California law from the class members was similar in practice to the use of the
15 collection letter sent to Mr. Keyes.

16 17. Mr. Keyes brings this action on behalf of himself and on behalf of all
17 other persons similarly situated as a class action pursuant to Rule 23 of the Federal Rules of Civil
18 Procedure.

19 18. Mr. Keyes seeks certification of a Rule 23(b)(3) class. It is directed
20 towards the repayment of the monies collected by the defendants from persons who wrote checks
21 in California. The monies so collected were in excess of the amounts allowed by California law
22 for dishonored checks.

23 19. The class consists of every person who wrote a check in California for
24 personal, family or household purposes, which check was dishonored, and the defendants
25 attempted to collect or collected monies for the dishonored check, within one year of the date of
26 the filing of this complaint, in excess of the monies allowed by California law.

1 20. Hall & Assoc. used the same collection practice against the class members
2 that they used against Mr. Keyes by demanding payment of monies from each class member in
3 excess of the face amount of each check and the fees allowed by California law.

4 21. The members of the class are so numerous that joinder of all of them is
5 impracticable. The number of class members is believed to be more than five hundred.

6 22. There are questions of law and fact that are common to each class
7 member. These common questions of law and fact include, but are not limited to:

8 a. The use of standard, computer generated letters demanding payment of
9 money in excess of the face amount of each check plus any fee allowed by
10 California law; and

11 b. The violation of California law and the FDCPA by these collection
12 practices.

13 23. The claims of Mr. Keyes are typical of those of each class member. Mr.
14 Keyes bases his claims upon the same violations of state and Federal law suffered by each class
15 member.

16 24. Mr. Keyes will adequately and fairly protect the interests of each class
17 member. He has no interest that conflicts with the interest of any class member. His attorneys
18 are experienced with class actions and can adequately protect the class members.

19 25. Questions of law and fact common to each class member predominate
20 over any questions affecting the named plaintiff.

21 26. A class action is an appropriate and superior method for the fair and
22 efficient adjudication of this controversy.

23
24 **V. First Cause of Action - Fair Debt Collection Practices Act.**

25 27. Mr. Keyes and the class members are “consumers” as defined by Section
26 1692a of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (“FDCPA”).

1 28. The checks that the defendants were attempting to collect from Mr. Keyes
2 and the class members were “debts” as defined by Section 1692a of the FDCPA.

3 29. The defendants took the checks for collection after they were in default.
4 The primary business of each of the defendants is the collection of third party debts. The
5 defendants are, therefore, “debt collectors” as defined by Section 1692a of the FDCPA.

6 30. The attempt to collect money for the checks in excess of the amount
7 allowed by California law violates Section 1692e of the FDCPA.

8 31. The attempt to collect money for the checks in excess of the amount
9 allowed by California law violates Section 1692f of the FDCPA.

10 32. The attempt to collect money for the checks without stating the amount of
11 the debt, i.e. the amount of the checks, violates Section 1692g of the FDCPA.

12 33. Pursuant to Section 1692k of the FDCPA, the defendants are liable to Mr.
13 Keyes for the actual damage caused by the actions of the defendants plus additional damages not
14 exceeding \$1,000.00.

15 34. Pursuant to Section 1692k of the FDCPA, the defendants are liable to the
16 class members for the actual damage caused by the actions of the defendants plus additional
17 damages against the defendants for the lesser of \$500,000.00 or one percent of the net worth of
18 each of the defendants.

19 35. Pursuant to Section 1692k of the FDCPA, the defendants are liable for all
20 court costs and attorney’s fees incurred by the plaintiffs in this action.

21
22 **VI. Jury Demand.**

23 16. The plaintiff demands trial by a jury.

24
25 **VII. Request for relief.**

26 17. The plaintiff requests judgment:

27 a. that defendants’ practices alleged herein violate the FDCPA;
28

- Dated: July 10, 2007

COMPLAINT, Page 6

Lester A. Perry
HOOLE & KING
4276 South Highland Drive
Salt Lake City, Utah 84124
Telephone: (801) 272-7556
Fax: (801) 272-7557

Date: Ongoing Bill

To:

Client Number: 7179.0

Keyes

Re: HALL & ASSOC.

New Case as of 6/18/07: \$0.00

Retainer: \$0.00

Payment: \$0.00

<u>Date</u>	<u>Description</u>	<u>Hours</u>	<u>Rate</u>	<u>Amount</u>
6/18/07	Hall-Telephone call with opposing counsel	.2	400.00	(N/C)
6/19/07	Security Check-Work on complaint; Telephone call with co-counsel re: complaint facts	1.0	400.00	400.00
6/26/07	Research California state FDCPA; Research California bad check statute	1.1	400.00	440.00
6/26/07	Investigate Hall & Associates web-site	.5	400.00	200.00
6/26/07	Research liability of Security Check for actions of its' attorney under FDCPA	1.3	400.00	520.00
6/26/07	Research liability of principals of corporate debt collector in 9 th Circuit	1.3	400.00	520.00
6/26/07	Telephone call with co-counsel	.4	400.00	(N/C)
6/27/07	Additional review of Hall & Associates and Security Check web sites	.8	400.00	320.00
6/27/07	Research 9 th Circuit law, specifically, Fox v. Citibank, Newman v. Checkrite, Clark v. Capital Credit; Shepardize all cases	1.7	400.00	680.00
6/27/07	Telephone call with Dale Pitman re: his experience with suing Hall; Telephone call with Tom Lyons re: same	.5	400.00	200.00

6/27/07	Telephone call with co-counsel re: strategy	.5	400.00	(N/C)
7/2/07	Work on complaint	2.4	400.00	960.00
7/2/07	Investigate connection between Caberera and Hall	.9	400.00	360.00
7/2/07	Redraft complaint	.6	400.00	240.00
7/10/07	Final complaint	.4	400.00	(N/C)
7/11/07	Modify complaint	.3	400.00	(N/C)
7/12/07	Review and work on case management orders; Prepare e-mail to co-counsel	.5	400.00	200.00
8/7/07	Telephone call with co-counsel re: service of process	.3	400.00	(N/C)
9/18/07	Telephone call with co-counsel re: Judge assignment and defendant's answers	.3	400.00	(N/C)
9/26/07	Various e-mails with other FDCPA Plaintiff Attorneys pursuing Hall	.4	400.00	160.00
9/29/07	Review Court order re: ADR	.2	400.00	80.00
9/29/07	Review proposed case management order	.3	400.00	(N/C)
10/6/07	Prepare interrogatories and requests for production for each defendant	1.6	400.00	640.00
10/11/07	Work on interrogatories, request for production and requests for admissions	1.6	400.00	640.00
10/18/07	Review case management and pre-trial order	.4	400.00	(N/C)
10/18/07	Review Defendant's initial disclosures; Prepare e-mail to Mr. Szabo	.3	400.00	120.00
10/18/07	Work on final of initial written discovery	.5	400.00	200.00
10/21/07	Work on splitting written discovery between different defendants	1.0	400.00	400.00
10/31/07	Various e-mails to co-counsel re: Rothchild default	.4	400.00	(N/C)
11/21/07	Research law on Defendants' affirmative defenses	1.4	400.00	560.00
12/5/07	Revise responses to written discovery from Security Check and Hall & Assoc.	1.2	400.00	480.00

12/6/07	Telephone call with Larry re: mediation, settlement, defendants' settlement responses	.4	400.00	(N/C)
12/26/07	Review documents provided by defendants	.5	400.00	200.00
12/28/07	Prepare for mediation	.5	400.00	(N/C)

SUMMARY:

ATTORNEY	RATE	TIME	TOTAL
Lester A. Perry	\$400.00	21.3	\$8,520.00
Lester A. Perry	\$0.00	4.4	\$0.00

Faxes: 0.00**Copies:** 25.40**Postage:** 0.00**Telephone:** 9.84**Current Amount Due:**

\$8,555.24

Lawrence L. Szabo

Attorney at Law
 3608 Grand Avenue
 Oakland, CA 94610
 (510) 834-4893 FAX: (510) 834-9220

March 6, 2008

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#457

Bill for legal services submitted to: David Keyes

		Hrs/Rate	Amount
11/17/06	tel. call from client re possiblity of bringing FDCPA action, discuss merits re conversation with P. Arons	0.20 @300.00/hr	60.00
11/17/06	draft fee agreement for FDCPA action	0.60 @300.00/hr	180.00
2/23/07	meeting with client, discuss issues surrounding case, availability if need to appear	0.20 @300.00/hr	60.00
2/23/07	research pending class action in IN, PACER	0.40 @300.00/hr	120.00
5/25/07	tel. call to Paul Arons, discuss case, causes of action, other action vs. Hall	0.50 @300.00/hr	150.00
5/25/07	e-mail to client, copy of complaint	0.10 @300.00/hr	30.00
5/25/07	preparation draft complaint	2.00 @300.00/hr	600.00
6/26/07	tel. call fro L. Perry re: issue regarding Cal FDCPA, naming individuals, other aspects of complaint	0.50 @300.00/hr	150.00
6/27/07	tel. call from lester Perry re: issues re complaint, composition of class, named parties	0.50 @300.00/hr	150.00
6/27/07	research other cases filed against Securty Check and Hall, review court dockets	2.00 @300.00/hr	600.00

David Keyes

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		Hrs/Rate	Amount
7/2/07	review L. Perry draft of ocmplaint	0.40 @300.00/hr	120.00
7/2/07	e-mail L. Perry re: comments re complaint.	0.50 @300.00/hr	150.00
7/9/07	e-mail to Lester Perry re filing of compalint	0.20 @300.00/hr	60.00
7/10/07	review final complaint	0.80 @300.00/hr	240.00
7/11/07	e-mail to Perry re: filing of complaint in of re CMC, other dates	0.20 @300.00/hr	60.00
7/13/07	tel. call to p Paul Arons re: judiocial assignment.	0.20 @300.00/hr	60.00
7/13/07	e-mail to court , copy of complaint	0.20 @300.00/hr	60.00
7/13/07	preparation notice and waiver of of service;	0.40 @300.00/hr	120.00
7/13/07	review complaint, notices orders, waever, for service	0.50 @300.00/hr	150.00
7/19/07	review motion to continue CMC conference.	0.20 @300.00/hr	60.00
7/25/07	tel. call file certification of interested parties	0.20 @300.00/hr	60.00
7/30/07	tel. call to S. Rothschild, message	0.10 @300.00/hr	30.00
7/30/07	research NY LLC law re withdrawal of membership	0.60 @300.00/hr	180.00
7/30/07	e-mail to Lester re: Call from Rothschild	0.20 @300.00/hr	60.00
7/30/07	research NY law re LLC, withdrawal of member from LLC	0.80 @300.00/hr	240.00

David Keyes

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		Hrs/Rate	Amount
8/8/07	tel. call from David K. re status of case	0.20 @300.00/hr	60.00
8/8/07	tel. call from sec for Ellis Coleman re: their representation service	0.20 @300.00/hr	60.00
8/9/07	e-mail to Lester Perry re retention of Ellis Coleman	0.20 @300.00/hr	60.00
8/22/07	tel. call from Mark Ellis re: representation	0.20 @300.00/hr	60.00
9/11/07	letter to process server, instructions	0.30 @300.00/hr	90.00
9/11/07	tel. call to Mark Ellis, message	0.10 @300.00/hr	30.00
9/14/07	tel. call from process server re Rothschild	0.10 @300.00/hr	30.00
9/14/07	tel. call from June Coleman request extension of time to answer	0.20 @300.00/hr	60.00
9/18/07	tel. call fro L. Perry re filing of answe status of Rothschild, discovery issue	0.20 @300.00/hr	60.00
9/18/07	review order reassigning case	0.10 @300.00/hr	30.00
9/18/07	review Answer of Hall, Secuirty check	0.20 @300.00/hr	60.00
9/26/07	e-mail from Lester P. re CMC deadline and pen ding class action in Minnesota	0.20 @300.00/hr	60.00
9/26/07	draft CMC joint statement	3.50 @300.00/hr	1,050.00
9/27/07	draft joint CMC statment	3.50 @300.00/hr	1,050.00
9/27/07	draft ADR stip	0.20 @300.00/hr	60.00

David Keyes

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		Hrs/Rate	Amount
9/28/07	e-mail to Coleman re ADR stip	0.10 @300.00/hr	30.00
9/28/07	e-mail to Coleman re meet and confer	0.10 @300.00/hr	30.00
9/28/07	e-mail to client re ADR handbook and certification	0.30 @300.00/hr	90.00
9/28/07	preparation of ADR certification form	0.20 @300.00/hr	60.00
10/2/07	preparation of Plitniff's initial disclosures	1.20 @300.00/hr	360.00
10/2/07	tel. call to Kimberly Lewellen re: initial disclosures, meae and confer, CMC statment	0.20 @300.00/hr	60.00
10/3/07	e-mail to K, Lewelllen re meet an donfer, intial disclosures	0.40 @300.00/hr	120.00
10/3/07	preparation of initial disclosures	0.80 @300.00/hr	240.00
10/3/07	e-mail response to Kim Lewellen re CMC statment and conference.	0.20 @300.00/hr	60.00
10/4/07	e-mail from K. Lewellen re: conference	0.10 @300.00/hr	30.00
10/4/07	tel. call from Mark Ellis re: Rule 26 conference, and CMC statment	0.50 @300.00/hr	150.00
10/4/07	review Opp. counsel changes to draft CMC statement	0.80 @300.00/hr	240.00
10/8/07	review discovery draft	0.50 @300.00/hr	150.00
10/10/07	tel. call from L Perry, re: discovery, limitation on interogs, prod. of documents, request for admissions.	0.50 @300.00/hr	150.00
10/11/07	appearance at CM conference, SF	2.50 @300.00/hr	750.00

David Keyes

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		Hrs/Rate	Amount
10/18/07	e-mail from Perry, re: discovery issues, and stnaidng issue	0.30 @300.00/hr	90.00
10/19/07	review discovery requests for Defendants	0.40 @300.00/hr	120.00
10/19/07	e-mail to Lester re; discovery, number of interogs 25 for each party, separate requests	0.30 @300.00/hr	90.00
10/24/07	review appointment of mediator, check profile	0.30 @300.00/hr	90.00
10/30/07	tel. call from mediator, Greg Walker re: pre-mediation conference.	0.20 @300.00/hr	60.00
11/1/07	e-mail to L Perry re;Rothshcild default	0.20 @300.00/hr	60.00
11/2/07	research Rule 55, service and Rule 4, default	0.50 @300.00/hr	150.00
11/6/07	tel. call pre-mediation phone conference	0.70 @300.00/hr	210.00
11/15/07	e-mail from Kim L. re: Service of discovery	0.20 @300.00/hr	60.00
11/15/07	review Local rules and FRCP re: service of discovery	0.60 @300.00/hr	180.00
11/15/07	e-mail to Kim L. re: agreement service of discovery?	0.30 @300.00/hr	90.00
11/18/07	e-mail from K. Lewellyn re mediation, excuse appearance of Wilson, Hall	0.20 @300.00/hr	60.00
11/18/07	e-mail reply to e-mail re; excuse appearance	@300.00/hr	
11/20/07	e-mail from Kim L. re: excuse appearance	0.20 @300.00/hr	60.00
11/20/07	e-mail reply to Kim L. re: excuse appearance	0.20 @300.00/hr	60.00

David Keyes

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		Hrs/Rate	Amount
11/20/07	e-mail from Lim L., further re excuse appearance	0.20 @300.00/hr	60.00
11/20/07	e-mail reply to further Kim L. re: excuse appearance	0.20 @300.00/hr	60.00
11/20/07	review letter to magistrate re: excuse appearance	0.20 @300.00/hr	60.00
11/26/07	e-mail from K Lewellen re: continuance of mediation	0.20 @300.00/hr	60.00
11/26/07	tel. call from K Lewellen re: continuance of discovery and mediation	0.30 @300.00/hr	90.00
11/26/07	review oder re appearance at mediation	0.10 @300.00/hr	30.00
11/26/07	e-mail to G Walker re scheduling issue	0.30 @300.00/hr	90.00
11/27/07	e-mail from G.Walke re continued date	0.10 @300.00/hr	30.00
11/27/07	preparation of mediation statement	3.00 @300.00/hr	900.00
11/28/07	tel. call from G Walker re: continued mediation	0.20 @300.00/hr	60.00
11/28/07	e-mail to David Keyes re: continued medaiton date, status of case	0.30 @300.00/hr	90.00
12/7/07	tel. call w/ Lester Perry discuss dicoverly responses and parameters for settlment proposal	0.50 @300.00/hr	150.00
12/19/07	e-mail from K lewellen re telephonic appearances	0.10 @300.00/hr	30.00
1/7/08	appearance at mediation	4.50 @300.00/hr	1,350.00
For professional services rendered		45.10	\$13,530.00

David Keyes
March 6, 2008

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Additional charges

		Qty/Price	Amount
7/13/07	filing fee	1 @350.00	350.00
10/11/07	parking CM confernece	1 @12.25	12.25
Total costs			<hr/> \$362.25
Total time and expense charges			<hr/> \$13,892.25
Balance due			<hr/> <hr/> \$13,892.25